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Message Text

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ACTION DLOS-09

INFO OCT-01 ISO-00 AF-10 ARA-14 EA-12 EUR-12 NEA-10
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CIAE-00 COME-00 DODE-00 DOTE-00 EB-08 EPA-04
SOE-02 DOE-15 FMC-02 TRSE-00 H-02 INR-10 INT-05
IO-14 JUSE-00 L-03 NSAE-00 NSC-05 NSF-02 OES-09
OMB-01 PA-02 PM-05 SP-02 SS-15 ICA-20 /213 W
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R 072334Z SEP 78 ZDK
FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC 3245

UNCLAS SECTION 01 OF 03 UN NEW YORK 03499

FROM LOSDEL

E.O. 11652: N/A
TAGS: PLOS
SUBJECT: LOS CONFERENCE: THIRD COMMITTEE REPORT (MP/27)

THE FOLLOWING WAS PRESENTED BY CHAIRMAN VALLARTA TO THE
INFORMAL MEETING OF THE THIRD COMMITTEE:

THIRD COMMITTEE (INFORMAL MEETING)
(PROTECTION AND PRESERVATION OF THE
MARINE ENVIRONMENT)

WORKING PAPER

RESULTS OF NEGOTIATIONS

ARTICLE 1

USE OF TERMS

PARAGRAPH 5
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(A) "DUMPING" MEANS:
(I) ANY DELIBERATE DISPOSAL OF WASTES OR OTHER MATTER FROM
VESSELS, AIRCRAFT, PLATFORMS OR OTHER MAN-MADE STRUCTURES
AT SEA;

ARTICLE 211
DUMPING

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PARAGRAPH 5
5. DUMPING WITHIN THE TERRITORIAL SEA AND THE EXCLUSIVE ECONOMIC ZONE OR ONTO THE CONTINENTAL SHELF SHALL NOT BE CARRIED OUT WITHOUT THE EXPRESS PRIOR APPROVAL OF THE COASTAL STATE, WHICH HAS THE RIGHT TO PERMIT, REGULATE AND CONTROL SUCH DUMPING AFTER DUE CONSIDERATION OF THE MATTER WITH OTHER STATES WHICH BY REASON OF THEIR GEOGRAPHICAL SITUATION MAY BE ADVERSELY AFFECTED THEREBY.

ARTICLE 212
POLLUTION FROM VESSELS
PARAGRAPH 2 BIS: INSERT THE FOLLOWING:
STATES WHICH ESTABLISH PARTICULAR REQUIREMENTS FOR THE PREVENTION, REDUCTION AND CONTROL OF POLLUTION OF THE MARINE ENVIRONMENT AS A CONDITION FOR THE ENTRY OF FOREIGN VESSELS INTO THEIR PORTS OR INTERNAL WATERS OR A CALL AT THEIR OFF-SHORE TERMINALS SHALL GIVE DUE PUBLICITY TO SUCH REQUIREMENTS AND SHALL COMMUNICATE THEM TO THE COMPETENT INTERNATIONAL ORGANIZATION. WHENEVER SUCH REQUIREMENTS ARE ESTABLISHED IN IDENTICAL FORM BY TWO OR MORE COASTAL STATES IN AN ENDEAVOUR TO HARMONIZE POLICY, THE COMMUNICATION SHALL INDICATE WHICH STATES ARE PARTICIPATING IN SUCH COOPERATIVE ARRANGEMENTS. EVERY STATE SHALL REQUIRE THE MASTER OF A VESSEL FLYING ITS FLAG OR OF ITS REGISTRY, WHEN NAVIGATING WITHIN THE TERRI-
TORIAL SEA OF A STATE PARTICIPATING IN SUCH COOPERATIVE
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ARRANGEMENTS, TO FURNISH, UPON THE REQUEST OF THAT STATE INFORMATION AS TO WHETHER IT IS PROCEEDING TO A STATE OF THE SAME REGION PARTICIPATING IN SUCH COOPERATIVE ARRANGE-
MENTS AND, IF SO, TO INDICATE WHETHER IT COMPLIES WITH THE PORT ENTRY REQUIREMENTS OF THAT STATE. THE PROVISIONS OF THIS ARTICLE SHALL BE WITHOUT PREJUDICE TO THE CONTINUED EXERCISE BY A VESSEL OF ITS RIGHT OF INNOCENT PASSAGE OR TO THE APPLICATION OF PARAGRAPH 2 OF ARTICLE 25.

ARTICLE 221
ENFORCEMENT BY COASTAL STATES

PARAGRAPH 2
WHERE THERE ARE CLEAR GROUNDS FOR BELIEVING THAT A VESSEL NAVIGATING IN THE TERRITORIAL SEA OF A STATE HAS, DURING ITS PASSAGE THEREIN, VIOLATED NATIONAL LAWS AND REGULATIONS ESTABLISHED IN ACCORDANCE WITH THE PRESENT CONVENTION OR APPLICABLE INTERNATIONAL RULES AND STANDARDS FOR THE PREVENTION, REDUCTION AND CONTROL OF POLLUTION FROM VESSELS, THAT STATE, WITHOUT PREJUDICE TO THE APPLICATION OF THE RELEVANT PROVISIONS OF SECTION 3 OF PART II OF THE PRESENT CONVENTION, MAY UNDER-

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TAKE PHYSICAL INSPECTION OF THE VESSEL RELATING TO THE
VIOLATION AND MAY, WHEN WARRANTED BY THE EVIDENCE OF THE
CASE, CAUSE PROCEEDINGS, INCLUDING DETENTION OF THE VESSEL,
TO BE TAKEN IN ACCORDANCE WITH ITS LAWS, SUBJECT TO THE
PROVISIONS OF SECTION 7 OF THIS PART OF THE PRESENT
CONVENTION.

PARAGRAPH 5
WHERE THERE ARE CLEAR GROUNDS FOR BELIEVING THAT A VESSEL
NAVIGATING IN THE EXCLUSIVE ECONOMIC ZONE OR THE
TERRITORIAL SEA OF A STATE HAS, IN THE EXCLUSIVE ECONOMIC
ZONE, VIOLATED APPLICABLE INTERNATIONAL RULES AND

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INFO OCT-01 ISO-00 AF-10 ARA-14 EA-12 EUR-12 NEA-10
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IO-14 JUSE-00 L-03 NSAE-00 NSC-05 NSF-02 OES-09
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FROM LOSDEL

STANDARDS OR NATIONAL LAWS AND REGULATIONS CONFORMING AND
GIVING EFFECT TO SUCH INTERNATIONAL RULES AND STANDARDS
FOR PREVENTION, REDUCTION AND CONTROL OF POLLUTION FROM
VESSELS AND THE VIOLATION HAS RESULTED IN A SUBSTANTIAL
DISCHARGE CAUSING OR THREATENING
SIGNIFICANT POLLUTION OF THE MARINE ENVIRONMENT, THAT STATE
MAY UNDERTAKE PHYSICAL INSPECTION OF THE VESSEL FOR
MATTERS RELATING TO THE VIOLATION IF THE VESSEL HAS
REFUSED TO GIVE INFORMATION OR IF THE INFORMATION
SUPPLIED BY THE VESSEL IS MANIFESTLY AT VARIANCE WITH THE
EVIDENT FACTUAL SITUATION AND IF THE CIRCUMSTANCES OF THE
CASE JUSTIFY SUCH INSPECTION.

PARAGRAPH 6

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WHERE THERE IS CLEAR OBJECTIVE EVIDENCE THAT A VESSEL
NAVIGATING IN THE EXCLUSIVE ECONOMIC ZONE OR THE TERRI-
TORIAL SEA OF A STATE HAS, IN THE EXCLUSIVE ECONOMIC ZONE,
COMMITTED A VIOLATION OF APPLICABLE INTERNATIONAL RULES
AND STANDARDS OR NATIONAL LAWS AND REGULATIONS CONFORMING
AND GIVING EFFECT TO SUCH INTERNATIONAL RULES AND
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STANDARDS FOR THE PREVENTION, REDUCTION AND CONTROL OF
POLLUTION FROM VESSELS, RESULTING IN DISCHARGE CAUSING
MAJOR DAMAGE OR THREAT OF MAJOR DAMAGE TO THE COASTLINE
OR RELATED INTERESTS OF THE COASTAL STATE, OR TO ANY
RESOURCES OF ITS TERRITORIAL SEA OR EXCLUSIVE ECONOMIC
ZONE, THAT STATE MAY, SUBJECT TO THE PROVISIONS OF SECTION
7 OF THIS PART OF THE PRESENT CONVENTION PROVIDED THAT
THE EVIDENCE SO WARRANTS, CAUSE PROCEEDINGS, INCLUDING
DETENTION OF THE VESSEL, TO BE TAKEN IN ACCORDANCE WITH
ITS LAWS.

ARTICLE 222
MEASURES RELATING TO MARITIME CASUALTIES TO AVOID POLLUTION

REPLACE ARTICLE 222 BY THE FOLLOWING TEXT:
1. NOTHING IN THIS PART OF THE PRESENT CONVENTION SHALL
PREJUDICE THE RIGHT OF STATES, PURSUANT TO INTERNATIONAL
LAW, BOTH CUSTOMARY AND CONVENTIONAL, TO ADOPT AND ENFORCE
MEASURES BEYOND THE TERRITORIAL SEA PROPORTIONATE TO THE
ACTUAL OR THREATENED DAMAGE TO PROTECT THEIR COASTLINE AND
RELATED INTERESTS, INCLUDING FISHING, FROM POLLUTION OR
THREAT OF POLLUTION FOLLOWING UPON A MARITIME CASUALTY OR
ACTS RELATING TO SUCH A CASUALTY, WHICH MAY REASONABLY BE
EXPECTED TO RESULT IN MAJOR HARMFUL CONSEQUENCES.

2. FOR PURPOSES OF THIS ARTICLE, "MARITIME CASUALTY"
MEANS A COLLISION OF SHIPS, STRANDING OR OTHER INCIDENT
OF NAVIGATION, OR OTHER OCCURRENCE ON BOARD A SHIP OR
EXTERNAL TO IT RESULTING IN MATERIAL DAMAGE OR IMMINENT
THREAT OF MATERIAL DAMAGE TO A SHIP OR CARGO.

ARTICLE 227
INVESTIGATION OF FOREIGN VESSELS
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REDRAFT PARAGRAPH 1 AS FOLLOWS:
1. STATES SHALL NOT DELAY A FOREIGN VESSEL LONGER THAN
IS ESSENTIAL FOR PURPOSES OF INVESTIGATION PROVIDED FOR

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IN ARTICLES 217,219 AND 221 OF THIS PART OF THE PRESENT
CONVENTION. ANY PHYSICAL INSPECTION OF A FOREIGN VESSEL
SHALL BE LIMITED TO AN EXAMINATION OF SUCH CERTIFICATES,
RECORDS OR OTHER DOCUMENTS AS THE VESSEL IS REQUIRED TO
CARRY BY GENERALLY ACCEPTED INTERNATIONAL RULES AND
STANDARDS OR OF ANY SIMILAR DOCUMENTS WHICH IT IS CARRYING.
FOLLOWING SUCH AN EXAMINATION, AN INSPECTION OF THE
VESSEL MAY BE UNDERTAKEN ONLY WHEN THERE ARE CLEAR GROUNDS
FOR BELIEVING THAT THE CONDITION OF THE VESSEL OR ITS
EQUIPMENT DOES NOT CORRESPOND SUBSTANTIALLY WITH THE
PARTICULARS OF THOSE DOCUMENTS OR WHEN THE CONTENTS OF
SUCH DOCUMENTS ARE NOT SUFFICIENT TO CONFIRM OR VERIFY A
SUSPECTED VIOLATION OR WHEN THE VESSEL IS NOT CARRYING
VALID CERTIFICATES AND RECORDS. IF THE INVESTIGATION
INDICATES A VIOLATION OF APPLICABLE LAWS AND REGULATIONS
OR INTERNATIONAL RULES AND STANDARDS FOR THE PRESERVATION
OF THE MARINE ENVIRONMENT RELEASE SHALL BE MADE PROMPTLY
SUBJECT TO REASONABLE PROCEDURES SUCH AS BONDING OR OTHER
APPROPRIATE FINANCIAL SECURITY. WITHOUT PREJUDICE TO
APPLICABLE INTERNATIONAL RULES AND STANDARDS RELATING TO
THE SEAWORTHINESS OF SHIPS, THE RELEASE OF A VESSEL MAY,
WHENEVER IT WOULD PRESENT AN UNREASONABLE THREAT OF
DAMAGE TO THE MARINE ENVIRONMENT, BE REFUSED OR MADE
CONDITIONAL UPON PROCEEDING TO THE NEAREST APPROPRIATE
REPAIR YARD. IN SITUATIONS WHERE RELEASE HAS BEEN
REFUSED OR MADE CONDITIONAL, THE FLAG STATE OF THE VESSEL
MUST BE PROMPTLY NOTIFIED, AND MAY SEEK RELEASE OF THE
VESSEL IN ACCORDANCE WITH THE PROVISIONS OF PART XV OF THE
PRESENT CONVENTION.

ARTICLE 231
MONETARY PENALTIES AND THE OBSERVANCE OF RECOGNIZED RIGHTS
OF THE ACCUSED
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REPLACE PARAGRAPH 1 OF THE ICNT BY THE FOLLOWING:
1. ONLY MONETARY PENALTIES MAY BE IMPOSED WITH RESPECT

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OMB-01 PA-02 PM-05 SP-02 SS-15 ICA-20 /213 W
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TO VIOLATIONS OF NATIONAL LAWS AND REGULATIONS OR
APPLICABLE INTERNATIONAL RULES AND STANDARDS, FOR THE
PREVENTION, REDUCTION AND CONTROL OF POLLUTION OF THE
MARINE ENVIRONMENT FROM VESSELS COMMITTED BY FOREIGN
VESSELS BEYOND THE TERRITORIAL SEA.

2. ONLY MONETARY PENALTIES MAY BE IMPOSED WITH RESPECT
TO VIOLATIONS OF NATIONAL LAWS AND REGULATIONS OR
APPLICABLE INTERNATIONAL RULES AND STANDARDS FOR THE
PREVENTION, REDUCTION AND CONTROL OF POLLUTION OF
THE MARINE ENVIRONMENT FROM VESSELS COMMITTED BY
FOREIGN VESSELS IN THE TERRITORIAL SEA, EXCEPT IN THE
CASE OF A WILFUL AND SERIOUS ACT OF POLLUTION
IN THE TERRITORIAL SEA.

PARAGRAPH 2 OF THE ICNT BECOMES PARAGRAPH 3.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COMMITTEE MEETINGS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 07 sep 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
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Office: ACTION DLOS
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Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
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Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
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Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
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Status: NATIVE
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TAGS: PLOS, PORG, THIRD COMMITTEE
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/b9c5de55-c288-dd11-92da-001cc4696bcc
Review Markings:
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20 Mar 2014
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